IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

and
HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1827 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 03/08/2004 in WP NO : 16399 OF 1996 on the file of the High Court.)

Between:

1 Sub Divisional Officer, Telecommunications, Dharmavaram 515872
2 District Manager Telecom, Anantapur - 515001.

..... APPELLANTS

AND

1 P. Ganganna, S/o. Ramanna,
R/o. Kutagulla (Via) Kadidri, Anantapur District Pin 515762.
2 Chairman Industrial Tribunal-I, Chandra Vihar, Hyderabad.

.....RESPONDENTS

Counsel for the Appellants: MR.R.S.MURTHY

Counsel for the Respondent No.1: MR.G.SURYANARAYANA

Counsel for the Respondent No.2 : None appeared.

The Court made the following :

ORDER (per Honourable Smt Justice T. Meena Kumari):

Heard both sides. At their request, the main writ appeal itself is taken up for disposal

The writ appeal is filed by the appellants against the oral order dated 3-8-2004 passed in W.P. No. 16399 of 1996 by the learned single judge, under which the writ petition was dismissed.

As a matter of fact, the workman-1st respondent has approached the Industrial Tribunal by raising a dispute under section 10 (1) (d) and (2A) of the Industrial Disputes Act questioning the termination of her services. The learned Tribunal having considered the rival contentions and having observed that the workman-1st respondent is entitled for reinstatement forthwith along with back wages from 18.1.1993 and continuity of service and also for the difference of pay worked out on the basis of the minimum pay in the pay scale of regularly employed workers in the corresponding cadres, but without any increment, passed the award directing reinstatement with all the benefits mentioned above. Having aggrieved by the same, the writ petitioners-appellants herein have filed the writ petition seeking for a direction in the nature of writ of mandamus to declare the Award dt.15-3-1995 in I.D.No. 2 of 1993 on the file of Industrial Tribunal (Central) Hyderabad as illegal and void.

The learned single Judge after considering the material on record dismissed the writ petition, but, however, with an observation that the workman-1st respondent herein shall be entitled to all the benefits under the award including interest on the

arrears amount, payable in accordance with the award.

Aggrieved by the same, the present writ appeal has been filed by the writ petitioners/appellants.

It is contended by the learned counsel appearing on behalf of the writ petitioners/appellants that the workman-1st respondent worked for the period from February 1989 to October 1989 on casual basis only. It is further contended that at the time of reference, the Telecom Department was declared as an Industry and the said fact has been convened to their counsel, but the said fact has not been brought to the notice of the Tribunal.

It is further contended that in view of the fact that the Telecom Department was declared as an Industry, the dispute in question itself is not maintainable, but the dispute has not been decided on the issue of maintainability of the reference.

On the other hand, it is the contention of the learned counsel for the workman-1st respondent herein that his services were terminated w.e.f. 1-12-1989 without compliance of the provisions of Section 25–F of the I.D. Act.

We have perused the material available on record and the order impugned as well as the award. A reading of the award goes to show that the appellants herein have not adduced any oral or documentary evidence before the Tribunal. But, however, the Tribunal after going through the evidence adduced on behalf of the workman-1st respondent herein has adjudicated upon the issue involved and passed the award with the directions as indicated above.

At this stage, it is contended by Mr.R.S. Murthy, the learned counsel appearing on behalf of the appellants that even though all the material has been furnished to the learned counsel appearing before the Tribunal, due to communication gap, he could not represent the case. Apart from that, neither any counter is filed nor any evidence is adduced on behalf of the appellants herein before the Tribunal before passing the Award. In this background of the matter, it is contended by the learned counsel that since the appellants could not avail the opportunity in the reference before the Tribunal the matter may be remitted back to the Tribunal for fresh consideration after affording an opportunity to the appellants.

In the instant case, the Industrial Dispute is of the year 1993. In view of the

long-standing dispute from the year 1993 and in the facts and circumstances of the case, we are not inclined to accept the contention of the learned counsel as to the remand of the case to the Tribunal at this stage.

The record shows that relief that is sought for in the reference is very limited that is confined to "Whether the action of the Sub Divisional Officer, Telecom, Dharmavaram, is justified in terminating the services of Sri P.Ganganna (workman-1st respondent) w.e.f. 1.1.1990?

In this view of the matter, We have no hesitation to hold that the relief granted by the Industrial Tribunal as to the payment of the back wages and also minimum scale of pay on par with regular employees is beyond the scope of the reference and consequently, the same is liable to be set aside. Accordingly, the said finding is set aside. However, the finding of the Tribunal as to the reinstatement of the workman-1st respondent from the date of the award, need not be disturbed and accordingly, the same is confirmed. However, it is made clear that workmen-1st respondent is entitled to the wages from the date of Award and in that regard, the appellants shall pay the wages in conformity with the provisions of Section 17 B of the I.D. Act.

With the above modification the writ appeal is disposed of.

(Justice T. Meena Kumari)

14-12-2004

(Justice S. Ananda Reddy)

Kvrk

To

1. The Chairman, Industrial Tribunal-1, Chandra Vihar, Hyderabad.

2. Two C.D. copies.

3. The Sub-Divisional Officer, Tele communications, Dharmavram

4. The District Manager, Telecom, Anantapur.

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1827 of 2004

(order of the Division Bench made by

the Hon'ble Smt Justice T.Meena Kumari)

14th DECEMBER 2004